

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

TONY L. ADY, JR., #1656901,

Plaintiff,

v.

FNU RODRIGOUS, *et al.*,

Defendants.

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Case No. 6:18-CV-637-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Tony L. Ady, Jr., an inmate confined in the Texas prison system, proceeding pro se, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation (Docket No. 21) concluding that the lawsuit should be dismissed for want of prosecution and failure to obey an order.

On June 26, 2019, Mr. Ady filed Objections to the Report. Docket No. 22. In his Objections, Mr. Ady complained that he did not have the money to pay the \$2.73 initial partial filing fee as instructed in the Court's February 22, 2019 Order. Docket No. 12. A review of the Court's docket reflects that Judge Mitchell previously granted extensions of time to either pay the initial partial filing fee or submit a new application to proceed *in forma pauperis* on the standardized form, along with a current six-month history of his Inmate Account Activity sheet, showing his inability to pay the initial partial filing fee. Docket Nos. 15 & 20.


Mr. Ady submitted an *in forma pauperis* data sheet with his Objections on June 26, 2019. (Docket No. 22-1). Mr. Ady's *in forma pauperis* data sheet reflects a balance of \$26.16, which is sufficient to pay the \$2.73 initial partial filing fee. In the interests of justice, Judge Mitchell

construed Mr. Ady's Objections and *in forma pauperis* data sheet as a request for an extension of time to pay the initial partial filing fee, and therefore extended the deadline to pay the initial partial filing fee to July 23, 2019. Docket No. 23. As of the date of this Order, Mr. Ady has not paid the initial partial filing fee of \$2.73.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a de novo review of the Objections raised by Mr. Ady, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and that the Objections by Mr. Ady are without merit. The Court therefore **ADOPTS** the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is therefore

ORDERED that the complaint is **DISMISSED WITHOUT PREJUDICE** for want of prosecution and failure to obey an order of the Court. FED. R. CIV. P. 41(b). All motions not previously ruled on are **DENIED**.

So **ORDERED** and **SIGNED** this **26th** day of **July, 2019**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE